

# CITY OF LODI

### **COUNCIL COMMUNICATION**

AGENDA TITLE: Communications (December 19, 1991 through December 26, 1991)

MEETING DATE: January 2, 1992

Kirk J. Evans, Administrative Assistant to the City Hanager PREPARED BY:

RECOMMENDED ACTION:

AGENDA ITEM

**MOLTACH 3 M M M O S 3 R** 

J la. b

That the City Council by motion action deny the following verified claims filed against the City of Lodi and refer them back to the City's Contract Administrator, Insurance Consulting Associates, Inc. (ICA).

- Judith & Don Smith dba Mom's Kitchen a) date of loss, 12/10/91
- b) Valenzuela, Sergio, date of loss, 11/14/91

BACKGROUND [NFORMATION:

Following review of these verified claims filed against the City of Lodi, the City Attorney and the City's Contract Administrator, Insurance Consulting Associates, Inc. (ICA) recommend that the City Council deny **the** subject claims and refer them back to ICA.

Additional information regarding these claims are contained in a Confidential envelope addressed to each Council Member.

FUNDING: None required.

Administrative Assistant to the City Manager

XJE:to

APPROVED: 1400. A. leison

THOMAS A. PETERSON

City Manager



CITY COUNCIL

JAMES W. PINKERTON, Mayor PHILLIP A. PENNINO Mayor Pro Tempore DAVID M. HINCHMAN JACK A SIEGLOCK JOHN R (Randy) SNIDER

## CITY OF LODI

CITY HALL. 221 WEST PINE STREET P.O. BOX 3006 LODI, CALIFORNIA 95241-1910 (209) 334-5634 FAX (209) 333-6795

Notice Of Claim Rejection

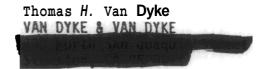
January 3, 1992

THOMAS A. PETERSON
City Manager

ALICE M. REIMCHE
City Clerk

BOB McNATT

City Attorney



Re: Smith dba Hom's Kitchen vs. City of Lodi

Dear Nr. Van Dyke:

Notice is hereby given that the claim which you presented to the City on December 18, 1991, is rejected as of the date of this letter.

#### **UARNING**

Subject to certain exceptions, you have only six (6) months from the date that this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. if you desire to consult with an attorney. you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the City will seek to recover all costs of defense in the event an action is filed in this matter and it is determined that the action was not brought in good faith and with reasonable cause.

Very truly yours,

Olece to Bunch

Alice M. Reimche

City Clerk

AMR/tp

cc: Insuranc? Consulting Associates, Inc.

REJECT/TXTA.TLP/GL

#### CITY COUNCIL

JAMES W. PINKERTON, Mayor PHILLIP A. PENNINO Mayor Pro Tempore DAVID M. HINCHMAN JACK A. SIEGLOCK JOHN R. (Randy) SNIDER

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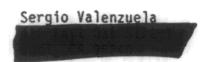
January 3, 1992

THOMAS A. PETERSON City Manager

ALICE M. REIMCHE City Clerk

BOB McNATT

City Attorney



Re: Valenzuela vs. City of Lodi

Dear Mr. Valenzuela:

Notice is hereby given that the claim which you presented to the City on December 18, 1991. is rejected as of the date of this letter.

#### WARNING

Subject to certain exceptions. you have only six (6) months from the date that this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult with an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the City will seek to recover all costs of defense in the event an action is filed in this matter and it is determined that the action was not brought in good faith and with reasonable cause.

Very truly yours,

Alice M. Reimche

City Clerk

AMR/tp

cc: Insurance Consulting Associates, Inc

REJECT/TXTA.TLP/GL

P.O. BOX 750849 • PETALUMA, CA 94975-0849

PHONE: (707) 778-1118 • 1-800-CALL-ICA • FAX (707) 778-8213

CORPORATE OFFICE:

1125 North McDowell Boulevard Petaluma CA 94954 (707) 778-1118

BRANCH OFFICE:

4827 Geary Boulevard San Francisco CA 94118 (415) 751-9801

WALNUT CREEK RESIDENT ADJUSTING SERVICE OFFICE:

39 Quail Court Suite 100 Walnut Creek CA 94596 (415) 935-3236 December 4. 1991

Kirk Evans Assistant to the City Manager city of Lodi Call Box 3006 Lodi, CA 95241-1910

Re Valenzuela v. Lodi

Client: City of Lodi

Claim No.: 91-48

Claimant: Sergio Valenzuela

Date of **Loss:** 11-14-91

ICA File No.: 35-0140000-51

Dear Mr. Evans:

I have now had the opportunity to review Hr. Valenzuela's claim, his estimate of damages, Glen Balzer's report of November 20, 1991 and speak with Mr. Balzer regarding this claim. It is based upon this review and discussion that I am recommending the City reject Mr.

Mr. Balzer indicates although there is a preinspection program ongoing in the City of Lodi, trees are
inspected during the summer and after the Fall leaves have
fallen from the trees. The particular tree whose branch
broken and damaged Mr. Valenzuela's car was at the time
covered with leaves and therefore any crack in the limb
would not have been discovered even by the regular
inspection done of the City trees. I therefore feel the
City has a very strong argument of "no-notice" and there is
even the argument this was an "act of God"-due.to-the facthigh-winds existed on November 14,-1991 and that was a
contributing factor in the cause of the limb breaking.



